

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emma Stydahr	Team: Squad #13	CCRB Case #: 201908934	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/08/2019 7:27 PM, NA, 10/___/2019	Location of Incident: § 87(2)(b) over the phone	Precinct: 105	18 Mo. SOL 4/8/2021	EO SOL 11/23/2021	
Date/Time CV Reported Thu, 10/10/2019 3:28 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/10/2019 3:28 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Stephen Perretta	05590	937276	105 PCT
2. LSA Michael Lauterborn	00000	887880	105 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kenneth Baronian	27132	939901	105 PCT
2. POM Michael Marzullo	25037	967188	105 PCT
3. POF Lisa Catapano	23194	962298	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Stephen Perretta	Abuse: On October 8, 2019, at § 87(2)(b) in Queens, Sergeant Stephen Perretta threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.SGT Stephen Perretta	Abuse: On October 8, 2019, at § 87(2)(b) in Queens, Sergeant Stephen Perretta interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
C. An officer	Discourtesy: On October 8, 2019, at § 87(2)(b) in Queens, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D. An officer	Abuse: On October 8, 2019, at § 87(2)(b) in Queens, an officer refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
E. An officer	Abuse: On October 8, 2019, at § 87(2)(b) in Queens, an officer refused to provide his name to § 87(2)(b)	§ 87(2)(b)
F.LSA Michael Lauterborn	Abuse: On an unknown date in October 2019, over the phone, Lieutenant Michael Lauterborn threatened to arrest § 87(2)(b)	§ 87(2)(b)
G.LSA Michael Lauterborn	Abuse: On an unknown date in October 2019, over the phone, Lieutenant Michael Lauterborn refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.LSA Michael Lauterborn	Discourtesy: On an unknown date in October 2019, over the phone, Lieutenant Michael Lauterborn acted discourteously toward § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On October 10, 2019, § 87(2)(b) called the CCRB and filed this complaint.

On October 8, 2019, at 7:27pm, § 87(2)(b) called 911 several times requesting the police respond to § 87(2)(b) in Queens, her place of residence, due to an ongoing tenant dispute. Sergeant Stephen Perretta of the 105<sup>th</sup> Precinct, one of the responding officers, spoke with two of § 87(2)(b)'s family members, § 87(2)(b) and § 87(2)(b) outside before approaching the house, where § 87(2)(b) was taking photos of the officers through the window. Sgt. Perretta told § 87(2)(b) that she would be arrested if she kept calling the police regarding the tenant dispute (**Allegation A: Abuse of Authority**, § 87(2)(g)). He ordered her to stop taking photos of him and he shined his flashlight in the window (**Allegation B: Abuse of Authority**, § 87(2)(g)).

Outside of the house, § 87(2)(b) told officers that his father was a member of service, and an unidentified officer replied, "I don't give a fuck about that" (**Allegation C: Discourtesy**, § 87(2)(g)). § 87(2)(b) asked that officer for his name and shield number, but the officer refused to provide the requested information (**Allegation D & E: Abuse of Authority**, § 87(2)(g)).

At an unknown time later that evening, § 87(2)(b) called the 105<sup>th</sup> Precinct stationhouse to request § 87(2)(b) be arrested for breaking and entering. She spoke with Lieutenant Michael Lauterborn of that command, who said § 87(2)(b) would be arrested if she kept calling the police regarding the tenant dispute (**Allegation F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) requested Lt. Lauterborn's shield number. Lt. Lauterborn said lieutenants do not have shield numbers and ultimately disengaged the call without providing the requested information (**Allegation G: Abuse of Authority**, § 87(2)(g)); **Allegation H: Discourtesy**, § 87(2)(g)).

§ 87(2)(g)

Body Worn Camera ("BWC") footage from the first incident location was obtained, but the recordings end prior to the point in time of the alleged FADO allegations. The original footage is attached to IA # 70, 71, 119, and 120, and summarized in IA #89 (**Board Review 01-05**).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: On October 8, 2019, at § 87(2)(b) in Queens, Sergeant Stephen Perretta threatened to arrest § 87(2)(b)**

§ 87(2)(b) testified that she was involved in an ongoing dispute with § 87(2)(b), a tenant who lived upstairs from § 87(2)(b). § 87(2)(b) had a relationship with § 87(2)(b), a family member of § 87(2)(b)s, with whom § 87(2)(b) had an order of protection against. § 87(2)(b) believed that the order of protection banned third parties in contact with § 87(2)(b) from being near § 87(2)(b). § 87(2)(b) called 911 for assistance in dealing with § 87(2)(b)'s presence near § 87(2)(b)'s home. Officers arrived and § 87(2)(b) spoke to Sgt. Perretta, identified via investigation, through her apartment window. Sgt. Perretta told § 87(2)(b) that if she continued to call 911 about this, she would be arrested. § 87(2)(b) later told

§ 87(2)(b) that Sgt. Perretta had also told him that § 87(2)(b) would be arrested if she continued to call 911 about this (**Board Review 06**).

§ 87(2)(b) provided a copy of her order of protection against § 87(2)(b) which makes no mention of a prohibition against third party contact (**Board Review 07 & 08**).

NYPD records show that § 87(2)(b) and § 87(2)(b) called 911 a collective nine times on the incident date, resulting in multiple officers responding to the scene throughout the evening. In § 87(2)(b)'s 911 calls, she said several times that § 87(2)(b) had broken into her home, and also reported a gun might have been at the location, though she later told the 911 operator that she did not see a gun (**Board Review 09**). The Resource Recap Log shows all officers who responded to § 87(2)(b)'s home on the incident date marked the jobs they responded to as non-crime corrected, defined as the resolution of an incident that was not a crime, or when a unit responds to a crime in progress but finds and corrects only a minor dispute (**Board Review 10**).

No BWC footage captured Sgt. Perretta's interactions with § 87(2)(b). BWC footage of officers responding to the prior 911 calls from the incident date capture officers informing § 87(2)(b) as well as two other individuals, that the situation constituted a landlord tenant dispute, which had to be resolved in civil court (**Board Review 01**).

Sgt. Perretta said the job at § 87(2)(b)'s home had originally come over the radio as a dispute with a knife. § 87(2)(b) also alleged during one of her 911 calls that § 87(2)(b) had tried to run her over. There were multiple witnesses on the scene and after conducting their investigation, the officers concluded that there was no weapon and that no crime had been committed. Sgt. Perretta believed this was the third time that evening that officers had been called to the location due to the tenant dispute; he himself had already responded there once earlier that evening. Sgt. Perretta denied threatening to arrest § 87(2)(b) if she continued to call 911, but acknowledged telling a group of downstairs tenants, including § 87(2)(b) that if they wanted to evict the upstairs tenant, § 87(2)(b) they needed to go about it through legal means, and that illegally evicting someone could lead to an arrest. Sgt. Perretta denied this constituted a threat (**Board Review 11**).

According to NYS Penal Law, Section § 240.50, a person is guilty of falsely reporting an incident in the third degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a crime, catastrophe or emergency under circumstances in which it is not unlikely that public alarm or inconvenience will result (**Board Review 12**).

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation (B) Abuse of Authority: On October 8, 2019, at § 87(2)(b) in Queens, Sergeant Stephen Perretta interfered with § 87(2)(b)'s use of a recording device.**

§ 87(2)(b) said as she spoke with Sgt. Perretta through her apartment window, she tried to take a photo of him with her phone. Sgt. Perretta shined his flashlight at § 87(2)(b)'s phone, which impeded her ability to photograph him. Sgt. Perretta also told her to stop taking pictures of him (**Board Review 06**). § 87(2)(b) provided a photo to the investigation, which she said she took of Sgt. Perretta shining his flashlight at her while telling her to stop taking his photo during the incident (**Board Review 14**). The photo depicts the screen from a window and a bright light, but nothing else in the photo is discernable.

§ 87(2)(b) provided a brief phone statement in which he denied witnessing an officer interfere with anyone's ability to record and denied hearing any officer tell a civilian not to take their picture. § 87(2)(b) refused to participate further in this investigation (**Board Review 15**).

§ 87(2)(b) provided a brief phone statement in which he said he heard an officer tell § 87(2)(b) that she could not record, but § 87(2)(b) did not elaborate and he was otherwise uncooperative with the investigation (**Board Review 16**).

Sgt. Perretta denied interfering with § 87(2)(b)'s use of a recording device. He denied doing so with his flashlight and he denied doing so verbally. During his CCRB interview, when presented with the photo § 87(2)(b) provided to the investigation, Sgt. Perretta said if that photo was in fact of him, he would have been utilizing his flashlight to see who and what was inside the house, and that he would have done this as a safety measure and standard tactical procedure, since the incident happened at night and came over the radio as a dispute with a knife (**Board Review 11**).

§ 87(2)(g)

**Allegation (C) Discourtesy: On October 8, 2019, at § 87(2)(b) in Queens, an officer spoke discourteously to § 87(2)(b)**

**Allegation (D) Abuse of Authority: On October 8, 2019, at § 87(2)(b) in Queens, an officer refused to provide his shield number to § 87(2)(b)**

**Allegation (E) Abuse of Authority: On October 8, 2019, at § 87(2)(b) in Queens, an officer refused to provide his name to § 87(2)(b)**

In § 87(2)(b)'s brief phone statement, he said he told an officer that his father was a member of service, and that officer responded, "I don't give a fuck." § 87(2)(b) asked that officer for his name and shield number, but the officer walked away without providing the requested information. As discussed previously, § 87(2)(b) was ultimately uncooperative with this investigation (see IAs for contact attempts) (**Board Review 16**).

In § 87(2)(b)'s brief phone statement, he said he heard § 87(2)(b) request the officer's name and shield number, and he heard the officer provide his name, but that the officer walked away while covering his shield instead of providing his shield number to § 87(2)(b). As discussed previously, § 87(2)(b) was also ultimately uncooperative with this investigation (**Board Review 15**).

§ 87(2)(b) made no mention of these aspects of the incident, as she would have been inside her home at the time they are alleged to have occurred.

The BWC footage did not capture these aspects of the incident.

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation (F) Abuse of Authority: On an unknown date in October 2019, over the phone, Lieutenant Michael Lauterborn threatened to arrest § 87(2)(b)**

**Allegation (G) Abuse of Authority: On an unknown date in October 2019, over the phone, Lieutenant Michael Lauterborn refused to provide his shield number to § 87(2)(b)**

**Allegation (H) Discourtesy: On an unknown date in October 2019, over the phone, Lieutenant Michael Lauterborn acted discourteously toward § 87(2)(b)**

§ 87(2)(b) said that on an unknown date and at an unknown time after her above interactions with officers, she called the 105<sup>th</sup> Precinct stationhouse and spoke with Lt. Lauterborn, identified via investigation. § 87(2)(b) requested that § 87(2)(b) be arrested. Lt. Lauterborn told § 87(2)(b) that § 87(2)(b) would not be arrested, and that § 87(2)(b) could be arrested if she kept calling 911 regarding this tenant dispute. § 87(2)(b) requested Lt. Lauterborn's shield number multiple times. Lt. Lauterborn told her that lieutenants do not have shield numbers. The call lasted approximately 5 – 10 minutes in total; § 87(2)(b) continued asking Lt. Lauterborn for his shield number and Lt. Lauterborn ultimately disengaged the call (**Board Review 06**).

The NYPD's Department Advocate's Office confirmed that as of December 12, 2019, Lt. Lauterborn was on terminal leave, set to retire from the NYPD (**Board Review 17**). He therefore could not be interviewed by the CCRB.

§ 87(2)(g)  
§ 87(2)(g)

§ 87(4-b), § 87(2)(g)  
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§ 87(4-b), § 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two additional CCRB complaints and has been named as a victim in two allegations (**Board Review 19**).
  - § 87(2)(b)
  -
- Sergeant Perretta has been a member of the NYPD for 15 years and has been a subject in three additional complaints, comprised of four allegations, none of which were substantiated. § 87(2)(g)
- Lieutenant Lauterborn has retired from the NYPD. He has been a subject in two additional complaints, comprised of three allegations, none of which were substantiated. § 87(2)(g)

#### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of May 11, 2020, § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's Office regarding this incident (**Board Review 20**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 13

Investigator:	<u>Inv. Emma Stydahr</u>	<u>Inv. Emma Stydahr</u>	<u>05/18/2020</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u>IM Laura Kastner</u>	<u>IM Laura Kastner</u>	<u>05/19/2020</u>

Signature

Print Title & Name

Date

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